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ant, taking his motor into a mine, from collision with timbers on a motor standing a short distance inside, held to authorize a finding that he was not guilty of contributory negligence, either in going at excessive speed, or in going unnecessarily far.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 987-996; Dec. Dig. § 281.* 9 Va.-W. Va. Enc. Dig. 725; 15 Va.-W. Va. Enc. Dig. 659.]

5. Master and Servant (§ 217*)—Injury to Servant—Assumption of Risk.—A servant injured when taking his motor into a mine, by collision with projecting timbers on another motor standing unprotected in the unlighted entry, did not assume the risk; he being ignorant of the presence of the car, and it not being customary to leave cars standing there.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 574-600; Dec. Dig. § 217.* 9 Va.-W. Va. Enc. Dig. 693; 14 Va.-W. Va. Enc. Dig. 692; 15 Va.-W. Va. Enc. Dig. 650.]

6. Trial (§ 156*)—Demurrer to Evidence.—Where on the evidence the jury might reasonably find for plaintiff, it must, on demurrer thereto, be held sufficient.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 354-356; Dec. Dig. § 156.* 4 Va.-W. Va. Enc. Dig. 533; 14 Va.-W. Va. Enc. Dig. 331; 15 Va.-W. Va. Enc. Dig. 281.]

Error to Circuit Court, Wise County.

Action by Ivory Williams, by, etc., against the Stonega Coke & Coal Company. Judgment for plaintiff. Defendant brings error. Affirmed.

Bullitt & Chalkley, of Big Stone Gap, for plaintiff in error.

Vicars & Peery, of Wise C. H., and *C. R. McCorkle*, of Apalachia, for defendant in error.

LIQUID CARBONIC CO. *v.* WHITEHEAD et al.

Nov. 20, 1913

[80 S. E. 104.]

1. Assignments for Benefit of Creditors (§ 184*)—Trustee as Bona Fide Purchaser.—A trustee in a deed of trust to secure creditors is a purchaser for value.

[Ed. Note.—For other cases, see Assignments for Benefit of Creditors, Cent. Dig. §§ 555-571; Dec. Dig. § 184.* 1 Va.-W. Va. Enc. Dig. 837.]

2. Assignments for Benefit of Creditors (§ 340*)—Remedy of Cred-

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

itor—Burden of Proof—Notice.—A creditor, charging that the trustee in a deed of trust to secure creditors had notice of his own prior right to or lien upon the property conveyed to him, has the burden of showing such notice, which, however, may be inferred from circumstances as well as from direct evidence, but the proof must be such as to affect the conscience, and so strong and clear as to fix the imputation of bad faith.

[Ed. Note.—For other cases, see Assignments for Benefit of Creditors, Cent. Dig. §§ 1025-1034; Dec. Dig. § 340.* 10 Va.-W. Va. Enc. Dig. 492; 14 Va.-W. Va. Enc. Dig. 785; 15 Va.-W. Va. Enc. Dig. 744.]

3. Assignments for Benefit of Creditors (§ 340*)—Action by Creditor—Sufficiency of Evidence.—In an action by a seller by conditional sale, brought against the buyers, their trustee under a deed of trust to secure creditors, and a purchaser from such trustee, evidence held sufficient to show that the trustee and the purchaser from him had actual notice of the creditor's rights and claims.

[Ed. Note.—For other cases, see Assignments for Benefit of Creditors, Cent. Dig. §§ 1025-1034; Dec. Dig. § 340.* 10 Va.-W. Va. Enc. Dig. 492; 14 Va.-W. Va. Enc. Dig. 785; 15 Va.-W. Va. Enc. Dig. 744.]

4. Assignments for Benefit of Creditors (§ 249*)—Sale by Assignee—Right of Purchaser.—A purchaser from a trustee in a deed of trust to secure creditors, with actual notice of the seller's reservation of title, cannot defeat the seller's claim on the ground that the instrument reserving title had not been duly docketed or recorded, as required by Code 1904, § 2462.

[Ed. Note.—For other cases, see Assignments for Benefit of Creditors, Cent. Dig. §§ 783, 790, 791; Dec. Dig. § 249.* 1 Va.-W. Va. Enc. Dig. 809.]

5. Assignments for Benefit of Creditors (§ 249*)—Lien of Creditor—Liability of Trustee and Purchaser with Notice.—A trustee under a deed of trust to secure creditors, with full knowledge of a seller's reservation of title, and a purchaser of the entire trust property with like knowledge, who in turn sold it to bona fide purchasers for value, withholding from them his knowledge as to the seller's rights, and retained the whole purchase money with the deliberate intent of defeating the seller's claim, were liable to the seller for the amount of his claim.

[Ed. Note.—For other cases, see Assignments for Benefit of Creditors, Cent. Dig. §§ 783, 790, 791; Dec. Dig. § 249.* 1 Va.-W. Va. Enc. Dig. 838.]

6. Sales (§ 452*)—Conditional Sales—Statutes—Construction.—Code 1904, § 2462, relating to the rights of sellers reserving title to

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

chattels sold, is a remedial statute, and must be liberally construed to give effect to the legislative intent.

[Ed. Note.—For other cases, see Sales, Cent. Dig. § 1322; Dec. Dig. § 452.* 11 Va.-W. Va. Enc. Dig. 79.]

7. Assignments for Benefit of Creditors (§ 340*)—Lien of Creditor—Personal Judgment.—Code 1904, § 2462, declares by subdivision 1 that a sale of goods with delivery of possession to the buyer and reservation of title shall be void as to creditors of, and purchasers for value without notice from, such buyer, unless the contract of sale be in writing, stating the reservation, and docketed in the office of the clerk of the circuit and corporation courts where the goods may be, and by subdivision 2, that all reservations, whether recorded or not, may be enforced on petition and upon the procedure and pleading prescribed, and that the court shall render such judgment as may be required. Held, that a seller with reservation of title, who recovered against the buyers, their trustee to secure creditors and a purchaser who, with actual notice, sold to bona fide purchasers so as to put the chattel out of the seller's reach, was entitled to a personal judgment against the defendants.

[Ed. Note.—For other cases, see Assignments for Benefit of Creditors, Cent. Dig. §§ 1025-1034; Dec. Dig. § 340.* 1 Va.-W. Va. Enc. Dig. 838.]

Appeal from Corporation Court of Buena Vista.

Action by the Liquid Carbonic Company against L. B. Whitehead and others. From a judgment of dismissal, plaintiff appeals. Reversed and judgment ordered to be entered for plaintiff against defendants Whitehead, A. W. Robertson, trustee, L. Blair, and S. H. Yokeley, jointly and severally.

Glasgow & White, of Lexington, and *H. S. Rucker*, of Martinton, W. Va., for plaintiff in error.

Robt. E. Scott, of Richmond, for defendants in error.

GOODLOE et al. v. WOODS et al.

Nov. 20, 1913.

[80 S. E. 108.]

1. Powers (§ 34*)—Construction—Execution.—Where a testator devised lands to one for life, to be disposed of at the devisee's death as he might think proper, the devisee had a power of appointment which he could exercise either by will or by deed; there being no mode of execution prescribed.

[Ed. Note.—For other cases, see Powers, Cent. Dig. §§ 121-127;

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.